

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**



Applicants: Cathleen von Lehe et al. Attorney Docket: EV31009US  
Serial No: 10/810,445 Group Art Unit: 3763  
Filed: March 26, 2004  
For: DOUBLE ENDED INTRAVASCULAR MEDICAL DEVICE

**PETITION UNDER 37 C.F.R. § 1.47(a)-AN INVENTOR REFUSES TO SIGN**

MAIL STOP MISSING PARTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants are filing herewith a Response to Notice to File Missing Parts and a Combined Declaration for Patent Application and Power of Attorney. Applicants hereby petition that the enclosed Combined Declaration be accepted under the provisions of 37 C.F.R. § 1.47(a). A check in the amount of \$260.00 is enclosed to cover the petition fee under 37 C.F.R. § 1.17(h) (\$130.00) and the surcharge fee (\$130.00).

The Combined Declaration is signed by all of the inventors except Thomas L. Club. Mr. Clubb's last known address is 554 Perch Lake Road, Hudson, WI 54016.

37 C.F.R. § 1.47(a) and M.P.E.P. § 409.03(a) allows a declaration not having the signatures of all the inventors to be accepted if it is: (1) signed by all the available joint inventors; and (2) accompanied by a petition including proof of the pertinent

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**Certificate of Express Mailing (37 C.F.R. § 1.10)**

I hereby certify that this paper or fee is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" Mailing Label No. EV 399044246 US in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Date: August 13, 2004

Signature: Jodi Jung

Name: Jodi Jung

facts, the petition fee set forth in 37 C.F.R. § 1.17(h), and the last known address of the non-signing inventor.

The enclosed Combined Declaration is signed by all of the available joint inventors and is accompanied by the petition fee and this petition that includes the last known address of Thomas L. Clubb, the non-signing inventor. Proof of the pertinent facts is given below and in the accompanying Statement of Facts in Support of Petition Under 37 C.F.R. § 1.47(a)-An Inventor Refuses to Sign.

Thomas L. Clubb refuses to sign the Combined Declaration for Patent Application and Power of Attorney for this application. As recited in the accompanying Statement of Facts in Support of Petition Under 37 C.F.R. § 1.47(a)-An Inventor Refuses to Sign, on July 19, 2004, Dian Bolte sent the application papers, including the application, the Combined Declaration for Patent Application and Power of Attorney and the Assignment to Thomas L. Clubb's last known address. On July 22, 2004, at approximately 8:38 a.m., Ms. Bolte called Mr. Clubb and he confirmed that he had received the application, Combined Declaration, and Assignment and that he would not sign the Combined Declaration or Assignment. Mr. Clubb is no longer employed by ev3 Inc., the assignee of the provisional applications from which this application claims priority.

Since Applicants have fulfilled the requirements of 37 C.F.R. § 1.47(a), Applicants respectfully request that the enclosed Combined Declaration for Patent Application and Power of Attorney be accepted.

Petition Under 37 C.F.R. § 1.47(a)  
Applicants: Cathleen von Lehe et al.  
Serial Number: 10/810,445

Attorney Docket: EV31009US

If any additional fees are required in connection with this petition, please  
charge the fees to Deposit Account No. 16-2312.

Respectfully submitted,

Dated: August 13, 2004

By 

**Customer No. 009561**

Terry L. Wiles, Esq. (29,989)  
Patrick J. O'Connell, Esq. (33,984)  
Miriam G. Simmons (34,727)  
POPOVICH, WILES &  
O'CONNELL, P.A.  
650 Third Avenue South, Suite 600  
Minneapolis, MN 55402  
Telephone: (612) 334-8989  
Representatives of Applicants

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Cathleen von Lehe et al. Attorney Docket: EV31009US  
 Serial No: 10/810,445 Group Art Unit: 3763  
 Filed: March 26, 2004  
 For: DOUBLE ENDED INTRAVASCULAR MEDICAL DEVICE

**STATEMENT OF FACTS IN SUPPORT OF PETITION**  
**UNDER 37 C.F.R. § 1.47(a)-AN INVENTOR REFUSES TO SIGN**

MAIL STOP MISSING PARTS  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Dear Sir:

1. I, Dian Bolte, of 10111 Beebe Lake Road NE, St. Michael, Minnesota 55376, am currently employed by ev3 Inc. as Executive Assistant to W. Glenn Edwards, Intellectual Property Counsel. ev3 Inc. is a corporation of the State of Delaware and has a business address of 4600 Nathan Lane North, Plymouth, Minnesota 55442.
2. On July 19, 2004, I forwarded a complete copy of the above-identified application, a Combined Declaration for Patent Application and Power of Attorney, and an Assignment to Thomas L. Clubb at his last known address, 554 Perch Lake Road, Hudson, WI 54016. A copy of my July 19, 2004 letter to Mr. Clubb is attached

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Date: August 13, 2004

Signature: Jodi Jung

Name: Jodi Jung

Statement of Facts in Support of Petition  
Applicants: Cathleen von Lehe et al.  
Serial Number: 10/810,445

Attorney Docket: EV31009US

as Exhibit A. Documentation showing proof of delivery of the July 19, 2004 letter and accompanying documents is attached as Exhibit B.

3. On July 22, 2004, at approximately 8:38 a.m., I had a phone conference with Thomas L. Clubb. Mr. Clubb indicated that he had received my July 19, 2004 letter, the patent application, the Combined Declaration for Patent Application and Power of Attorney and the Assignment. Mr. Clubb stated that he was declining to sign any of the papers involved with this patent application. He was cordial but adamant that he will not sign any of the papers.

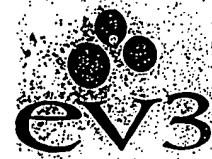
4. Mr. Clubb is a former employee of ev3 Inc.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

Date: August 11, 2004

Dian Bolte  
Dian Bolte

## **EXHIBIT A**



AN ENDOVASCULAR COMPANY

PH 763.398.7000

FX 763.398.7200

4600 Nathan Lane North, Plymouth, MN 55442-2920

July 19, 2004

Mr. Thomas L. Clubb  
554 Perch Lake Road  
Hudson, WI 54016

Re: Declaration and Assignment Form for DOUBLE ENDED INTRAVASCULAR MEDICAL  
DEVICE  
File ev31009US

Dear Mr. Clubb:

Enclosed you will find the above referenced documents which are required to proceed with the filing of the United States Patent Application for DOUBLE ENDED INTRAVASCULAR MEDICAL DEVICE for ev3 Inc. The Assignment must be signed in the presence of a Notary Public. The Declaration simply requires your signature and the date on which you signed it. Please return both documents to me as quickly as is practicable.

The drawings and the claims for this patent application that I have included in the package are for your records.

I am enclosing a FedEx envelope with postage affixed for your convenience.

Thank you so much for your attention to this matter. If you should have any questions or concerns, I can be contacted at 763-398-7028.

Best regards,

A handwritten signature in cursive ink that appears to read 'Dian Bolte'.

Dian Bolte  
Executive Assistant to  
W. Glenn Edwards  
Intellectual Property Counsel  
ev3 Inc.

Enclosures

## **EXHIBIT B**

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<b>Ship To:</b>	Thomas L. Clubb 554 Perch Lake Road Hudson, WI 54016 US 763-744-0246	<b>Package type:</b> Pickup/Drop Off <b>Total Weight:</b> <b>Declared Value:</b> <b>Shipper Account Number:</b> <b>Bill Shipment To:</b> <b>Courtesy Rate Quote*:</b> <b>Special Services</b>	FedEx Envelope Drop Off 1 LBS 0 USD 134493178 134493178 *6.05 Signature Required Residential Delivery Express
<b>From:</b>	Dian Bolte EV3 INC 4600 NATHAN LANE NORTH PLYMOUTH, MN 55442 US 7633987028	<b>Shipment type:</b>	
<b>Tracking Number:</b>	791296993030		
<b>Your reference</b>	W Glenn Edwards		
<b>Department number:</b>	650		
<b>Ship date:</b>	Jul 19 2004		
<b>Service type:</b>	FedEx 2-Day		

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**Bolte, Dian**

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**From:** FedEx [donotreply@fedex.com]  
**Sent:** Wednesday, July 21, 2004 4:56 PM  
**To:** Bolte, Dian  
**Subject:** FedEx shipment 791296993030

Our records indicate that the shipment sent from Dian Bolte/EV3 INC to Thomas L. Clubb has been delivered.  
The package was delivered on 07/21/2004 at 1:42 PM and signed for or released by 221271 ROF.

The ship date of the shipment was 07/19/2004.

The tracking number of this shipment was 791296993030.

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### Detailed Results

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Tracking number 791296993030  
 Signed for by 221271 ROF  
 Ship date Jul 19, 2004  
 Delivery date/time Jul 21, 2004 1:42 pm

Reference number W GLENN EDWARDS  
 Delivered to Recipient  
 Delivery location HUDSON WI  
 Service type FedEx 2Day Envelope

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Date/time	Status	Location	Comments
Jul 21, 2004	1:42 pm Delivered	HUDSON WI	No signature required - release waiver on file
	1:42 pm Delivered	HUDSON WI	No signature required - release waiver on file
	8:11 am On FedEx vehicle for delivery	WHITE BEAR LAKE MN	
	7:17 am Arrived at FedEx Destination Location	WHITE BEAR LAKE MN	
Jul 20, 2004	6:03 pm Package status	WHITE BEAR LAKE MN	Package not due for delivery
	5:58 pm Package status	WHITE BEAR LAKE MN	Package in FedEx location
	8:10 am On FedEx vehicle for delivery	WHITE BEAR LAKE MN	
	4:45 am Left FedEx Ramp	MINNEAPOLIS MN	
	4:45 am Arrived at FedEx Ramp	MINNEAPOLIS MN	
Jul 19, 2004	11:33 pm Package status	MINNEAPOLIS MN	Package in FedEx location
	11:28 pm Left FedEx Ramp	MINNEAPOLIS MN	
	8:21 pm Left FedEx Origin Location	MAPLE GROVE MN	
	8:10 pm Arrived at FedEx Ramp	MINNEAPOLIS MN	

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